REMARKS

This Response is submitted in response to the final Office action mailed on April 5, 2005. Claims 1 and 3-14 are pending in this application. In the Office Action, Claims 1-14 are rejected under 35 U.S.C. §102 and Claims 9 is objected to. In response Claims 1, 4-6 and 9 have been amended. Claim 2 has been cancelled without prejudice or disclaimer. These amendments do not add new matter. In view of the amendments and/or for the response set forth below, Applicant respectfully submits that the rejections should be withdrawn.

In the Office Action, Claims 1, 3-7 and 9-13 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,000,321 to Mochizuki et al. ("*Mochizuki*"). Applicant respectfully disagrees with and traverses these rejections for at least the reasons set forth below.

Applicant would like to clarify the type of product and process that is covered by the present invention. For example, as stated in the specification, at page 2, lines 2-14, the present invention comprises "a chewing gum-containing tablet which has a novel and unique effect in the mouth by combining the properties of a tablet with those of a chewing gum. The tablet of the present invention has a hard crumbly initial eat typical of a pressed sweet like Poloa which changes to a chewing gum stage. Accordingly, the present invention comprises a chewing gum-containing tablet comprising a compressed mixture of gum base and a tablet base, such that, when masticated, the tablet initially exhibits a first crumbly stage in which the tablet breaks into particles, followed by a second chewing gum stage in which the particles form a wad of chewing gum. The invention also relates to a process for the preparation of a chewing gum-containing which comprises mixing a particulated gum base with a particulated tablet base material and compressing the mixture in a tablet press to enable it to bind together and form a firm compact tablet having the features disclosed herein."

Previously presented Claim 1 recites, in part, a chewing gum-containing tablet comprising a compressed mixture of gum base and a tablet base in particulate form, the average particle size of the gum base and the tablet base is from 20 to 160 microns, such that, when masticated, the tablet initially exhibits a first crumbly stage in which the tablet breaks into particles, followed by a second chewing gum stage in which the particles form a wad of chewing gum. Previously presented Claim 9 recites, in part, a process for the preparation of a chewing guru-containing tablet which comprises mixing a particulated gum base with a particulated tablet base material wherein the average particle size of the gum base and the tablet base is from 20 to

160 microns, and compressing the mixture in a tablet press to enable it to bind together and form a firm compact tablet such that, when masticated, the tablet initially exhibits a first crumbly stage in which the tablet breaks into particles, followed by a second chewing gum stage in which the particles form a wad of chewing gum. In contrast to the present claims, *Mochizuki* fails to disclose all of the elements of the claimed invention.

There are three significant differences between the product of the present invention and the product of *Mochizuki*. First, the present claims are directed, in part, to a product that exhibits two distinct stages on mastication: 1) a first crumbly stage in which the tablet breaks into particles, and 2) a second chewing gum stage in which the particles form a wad of chewing gun. In contrast to the present claims, *Mochizuki* fails to disclose or suggest these elements.

For example, the product of *Mochizuki* exhibits a soft chewing impression when it is chewed. See, *Mochizuki*, column 1, lines, 18-19, column 2, lines 33-34 and lines 38-39. Further, *Mochizuki* states "[a]s a consequence, the chewing gum of the invention, when chewed, gives initially a light, soft, less visco-elastic and crisp impression and, as the chewing proceeds, with attendant ingredient elution by the saliva and elevation of the temperature of the mouth, the chewing gum exhibits properties peculiar to chewing gums in general. See, *Mochizuki*, column 4, lines 13-20. Consequently, *Mochizuki* fails to disclose, teach or suggest that his chewing gum exhibits a first crumbly stage in which the tablet breaks into particles on mastication as required by the present claims. Indeed, *Mochizuki* discloses a product which is different than that of the present invention.

Second, the chewing gum tablet of the present invention comprises a compressed mixture of gum base and a tablet base in particulate form. As recited in Claim 9, the compression takes place in a tablet press. In contrast, *Mochizuki* avoids compression as can be seen from Claim 1 of *Mochizuki*, which reads a process for the preparation of chewing gum, comprising mixing a chewing gum base with additives to produce a chewing gum composition of desired taste, color and flavor, cooling the chewing gum composition to temperatures below -15° C, forming the cooled chewing gum composition into minute fragments, and placing the minute fragments together in a pile and warming the fragments to cause them to become self adhered together as they thaw and form an integrated chewing gum product with air spaces therebetween and without compressing them together so as to destroy the air spaces.

Mochizuki teaches that adhesion between the fragments is achieved by warming them to form the integrated chewing gum product. In fact, *Mochizuki* teaches against tabletting at column 1, lines 56-59 which read "[h]owever, since the tabletting process is conducted at the final stage, it is difficult to obtain final products having lightweight, low specific gravity, and a soft chewing impression when chewed." Therefore, the product of *Mochizuki* differs from that of the present invention because the mixture of gum base and a tablet base of *Mochizuki* is not compressed.

Finally, the chewing gum of *Mochizuki* contains air spaces and is light in weight. For example, it is clear from Claim 1 of *Mochizuki* that its chewing gum contains air spaces. It is also clear that the chewing gum is light in weight. See, *Mochizuki*, column 1, lines 16-18 and column 2, lines 30-39. For example, *Mochizuki* states at column 1, lines 16-18 that "[t]he present invention is particularly related to a process for preparing chewing gum which is light in weight and low in specific gravity and which exhibits a soft chewing impression when it is chewed." *Mochizuki* states at column 2, lines 30-39 that "[b]y an extremely simple process, as described above, there are obtained chewing gum products having a lightweight, low specific gravity and a desired fixed homogeneous texture which exhibits a soft chewing impression when chewed. Accordingly, it is an object of the invention to provide a chewing gum method of manufacture for forming chewing gum which is of lightweight, low specific gravity and gives a desired soft chewing impression when chewed." *Mochizuki* states at column 3, lines 61-64 that "[t]he resulting chewing gum product contains a sufficient quantity of minute air bubbles and has a desired fixed homogeneous and consistent texture."

The chewing gum tablet of the present invention does not contain air bubbles and is not lighter in weight than normal conventional chewing gum. This is due to the tabletting process. In contrast, *Mochizuki* confirms that lightweight products with a soft chewing impression are difficult to obtain with a tabletting process by stating "[h]owever, since the tabletting process is conducted at the final stage, it is difficult to obtain final products having lightweight, low specific gravity, and a soft chewing impression when chewed." See, *Mochizuki*, column 1, lines 56-59.

Applicant's specification, at page 5, lines 1-8, reads "[u]pon initial mastication, the tablet is broken into smaller particles and presents a crumbly texture in the mouth. Continued mastication converts the crumbly texture to a coalesced wad of chewing gum to be enjoyed in the

same manner as conventional chewing gum. In the mouth, the tablet initially has a crumbly texture which lasts for a certain period of time before it becomes a normal cohesive chewing gum. The period of crumbliness varies according to rate of chew and the ratio between the gum and tablet material. For a slow chew according to the recipe this period may vary from 0.5 seconds to 1 minute." The use of the words "conventional" and "normal" indicate that the chewing gum of the present invention is not lighter than normal chewing gum.

With regard to the process Claim 9 of the present invention, there are two additional differences. First, the process of the present invention comprises in a first stage mixing a particulated gum base with a particulated tablet base material in particulate form. In contrast, the first stage of *Mochizuki* comprises mixing a chewing gum base with additives to produce a chewing gum composition. Second, in the present invention, the particulate mixture is then compressed in a tablet press to form a firm compact tablet. In contrast, the *Mochizuki* process involves cooling the chewing guru composition to temperatures below -15°C, forming the cooled chewing gum composition into minute fragments, and placing the minute fragments together in a pile and warming the fragments to cause them to become self adhered together as they thaw and form an integrated chewing gum product with air spaces therebetween and without compressing them together so as to destroy the air spaces.

Applicant respectfully disagrees with the Patent Office's assertion regarding *Mochizuki* allegedly disclosing the compressing of a mixture of gum base and a tablet base material in powder form at column 3, lines 49-57. *Mochizuki* does not disclose that a mixture of particulated gum base with a particulated tablet base material in particulate form is compressed to form a tablet. Instead, *Mochizuki* discloses that a chewing gum base is mixed with additives to produce a chewing gum composition. This chewing gum composition (not the particulate mixture of gum base and tablet base) is cooled to below 15°C, formed into fragments which are then warmed to cause them to adhere. For example, *Mochizuki* states at column 3, lines 49-57, that "---if the fragments or pieces of the chewing gum composition are such that they do not adhere together, or adhere with other materials to be mixed therewith, they are appropriately applied with light pressure manually or mechanically before they are warmed to the normal room temperature to thereby promote the cross-linking or adhering of the chewing gum. This is, of course, an auxiliary step to improve the unity of the product and, in principle, the integration step is carried

out merely by permitting the refrigerated fragments or pieces to warm to the normal room temperature and become adhered together."

Therefore, in addition to the fact that the pressure is applied to fragments of chewing composition rather than the particulate mixture of gum base and tablet base as in the present invention, the pressure applied is only light pressure. This *Mochizuki* teaches away from the present invention regarding the use of a tablet press that involves much greater forces by the use of a suitably shaped punch and die (see Example 1).

In sum, *Mochizuki* not only fails to disclose or suggest, the present claims, it teaches away from same. For the reasons discussed above, Applicant respectfully submits that Claims 1 and 9 and Claims 3-7 and 10-13 that depend from these claims are novel, nonobvious and distinguishable from the cited reference.

Accordingly, Applicant respectfully requests that the rejection of Claims 1, 3-7 and 9-13 under 35 U.S.C. §102(b) be withdrawn.

Claims 8 and 14 are rejected under 35 U.S.C. §103 as being unpatentable over *Mochizuki* in view of U.S. Patent No. 4,753,805 to Cherukuri et al. ("*Cherukuri*"). Applicant respectfully submits that the patentability of Claims 1 and 9 renders moot the obviousness rejection of Claims 8 and 14 that depend from Claims 1 and 9, respectively. In this regard, the cited art fails to teach or suggest the elements of Claims 8 and 14 in combination with the novel elements of Claims 1 and 9.

Applicant respectfully disagrees with the Patent Office's assertion that the inclusion of a dental ingredient or a breath freshener is well established in the field and that Cherukuri discloses the use of medicaments in a chewing gum tablet. See, Office Action, page 4. For example, the present claims involve an inventive step over *Mochizuki* because *Mochizuki* is concerned with a completely different problem to that of the present invention. As discussed previously, *Mochizuki* is entirely directed to providing a chewing gum method of manufacture for forming chewing gum which is lightweight, low specific gravity and gives a desired soft chewing impression when chewed. In fact, *Mochizuki* teaches away from the present invention by teaching that compression and tabletting should be avoided. Neither the product nor the process of the present invention are obvious in view of *Mochizuki* because of the use of the novel compressed mixture of gum base and a tablet base in particulate that forms the unique chewing characteristics, i.e. the tablet initially exhibits a first crumbly stage in which the tablet breaks into

particles, followed by a second chewing gum stage in which the particles form a wad of chewing gum. Consequently, the use of functional ingredients as disclosed by Cherukuri in the chewing gum of *Mochizuki* to form the chewing gum tablet of the present invention is not obvious in view of the previous discussion.

For the foregoing reasons, Applicant respectfully requests reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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